

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. CR 04-00317 WHA

Plaintiff,

v.

**ORDER DENYING CERTIFICATE OF
APPEALABILITY OF ORDER
DENYING DEFENDANT'S MOTION
UNDER SECTION 2255**

CHARLES EDWARD LEPP,

Defendant.

By order dated April 9, defendant's motion to vacate, set aside, or correct his sentence under Section 2255 was denied (Dkt. No. 411). A certificate of appealability is now requested. Pursuant to 28 U.S.C. 2253(c) and Rule 11(a) of the Rules Governing Section 2255 Cases, defendant must make a substantial showing that his claims amounted to a denial of his constitutional rights or demonstrate that a reasonable jurist would find this Court's denial of his claims debatable or wrong. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). For the reasons set forth in the April 9 order denying defendant's Section 2255 motion, defendant has failed to do so. Consequently, a certificate of appealability is **DENIED**.

The denial of the certificate of appealability is without prejudice to petitioner seeking a certificate from the United States Court of Appeals for the Ninth Circuit.

IT IS SO ORDERED.

Dated: May 17, 2013.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE